

TITLE 16. BOARD OF OCCUPATIONAL THERAPY NOTICE OF PROPOSED CHANGES IN THE REGULATIONS

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally, or in writing, relative to the action proposed at a hearing to be held at the Department of Consumer Affairs, 400 R Street, Suite 3020, Sacramento, California, 95814, on April 16, 2004, at 1:00 p.m. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on April 16, 2004, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the action substantially as described below or may modify such action if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified action will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the action.

Authority and Reference: Pursuant to the authority vested by sections 2570.13 and 2570.20 of the Business and Professions Code, and to implement, interpret or make specific sections 2570.2, 2570.3, 2570.4, 2570.5, and 2570.13 of the Business and Professions Code, the Board is considering adding to Division 39, Title 16, of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On January 1, 2001, Senate Bill 1046 (Murray, Chapter 697, Statutes of 2000) took effect, establishing the Board whose duties are to license occupational therapists, certify occupational therapy assistants and regulate the occupational therapy profession. This law requires the Board to adopt rules necessary to assure appropriate supervision of occupational therapy assistants, limited permit holders, students, and aides. The proposed regulatory actions are necessary to implement this legislation.

Section 4180: Existing law requires the Board to develop regulations regarding supervision requirements for occupational therapy assistants, limited permit holders, students and aides when providing direct client related services. This proposed regulation would define “client related” and “non-client related” tasks, Level I and Level II students, and what constitutes “periodic” review for supervision purposes.

Section 4181: This proposed regulation would specify what constitutes appropriate supervision of occupational therapy assistants; would provide that supervising occupational therapists be responsible for all occupational therapy services provided by occupational therapy assistants, limited permit holders, students, and aides; would provide that occupational therapy assistants could supervise occupational therapy assistant limited permit holders, Level I occupational therapy students, Level I and II occupational therapy assistant students, and aides providing non-client related tasks; and would require supervising occupational therapists to

determine that those under their supervision possess the requisite certificates or permits to provide occupational therapy services.

Section 4182: This proposed regulation would provide that the supervising occupational therapist determine the treatments the occupational therapy assistant could perform based on the clinical complexity of the client, the skill level of the occupational therapy assistant, and the client's need for continual reassessment during treatment. This regulation would specify that the supervising occupational therapist be responsible for interpretation of referrals or prescriptions for occupational therapy services, interpretation and analysis for evaluation purposes, and development, interpretation, implementation and modification of the treatment and discharge plans. It would also provide that the occupational therapy assistant could participate in these processes.

Section 4183: This proposed regulation would specify that the Level II occupational therapy student could, at the discretion of the supervising occupational therapist, provide occupational therapy services commensurate with his or her education and training. It would also require that all documented client-related services provided by limited permit holders and students be reviewed and cosigned by the supervising occupational therapist.

Section 4184: This proposed regulation would specify that the primary function of an aide is to perform routine tasks related to occupational therapy services; would identify the client-related tasks that could be delegated to an aide and the factors that must be considered before delegation; would specify that an aide could **not** perform occupational therapy evaluative procedures, initiation, planning, adjustment, or modification of treatment procedures, act on behalf of the supervising occupational therapist in any matter related to treatment that requires decision making; and would require that all documented client-related services be reviewed and cosigned by the supervising occupational therapist.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the adoption of this regulation would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:
None

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses because the regulations do not regulate small businesses, do not require reports or any other compliance activities.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Occupational Therapy, 444 North Third Street, Suite 410, Sacramento, California 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person name below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

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The backup contact person is:

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Website Access: Materials regarding this proposal can be found at www.bot.ca.gov.